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## WATER RIGHTS and ADJUDICATION

Selections from *The Interim*, June 2004, Vol. 14, No. 13  
"Water—How Important Is It Anyway?" by Krista Lee Evans

Depending on the source, Montana is in its sixth or seventh year of drought. In May, the New York Times featured "Drought Settles In, Lakes Shrink and West's Worries Grow" and noted: "Some are beginning to realize that a world of eternally blue skies and meager mountain snow-packs may not be a passing phenomenon but rather the return of a harsh climatic norm. Continuing research into drought cycles over the last 800 years bears this out, strongly suggesting that the relatively wet weather across much of the West during the 20th century was a fluke. In other words, scientist who study tree rings and ocean temperatures say the development of the modern urbanized West—one of the biggest growth spurts in the nation's history—may have been based on a colossal miscalculation."

### STATUS IN THE WEST

Some western states are screaming for water already. The City of Denver has already instituted water restrictions. Lake Powell in Arizona, built in the 1950s, is the second largest artificial lake in the United States and has been a demonstration of human ability to "manage" water. Arid western states rely on the Lake and have considered it an endless supply of water. However, Lake Powell is currently at 40% of its capacity, the lowest level since the early 1970s. If drought persists, Lake Powell will

be unable to generate electricity as early as 2007, if not sooner. Then where will thirsty cities, some with populations greater than all of Montana, go for water and the electricity that allows them to exist?

### WATER QUANTITY IN MONTANA

So, how much water do we "own" in Montana? Can we sell, lease, or give water to other states? What if a downstream state "takes" our water? How do we prove that we are entitled to a certain amount without accurate adjudication? The situation with Fort Peck Lake epitomizes this dilemma.

The Montana Constitution states that "all surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law."

Prior to 1972, all a person needed to do was put the water to beneficial use. A person could file a notice with the county, but this was not required. In 1972, the new Constitution provided that "all existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed." So, at that time, anyone who was putting water to a beneficial use before 1972 had a constitutionally protected water right.

The 1973 Water Use Act and additional state legislation fulfilled the constitutional requirement that "the

Continued on next page

Legislature shall provide for the administration, control, and regulation of water rights and shall establish a system of centralized records, in addition to the present system of local records.” Shortly thereafter, staff in Department of Natural Resources (DNRC) was increased by 30 people and a Water Court was formed to handle the process. However, since then, DNRC staff has been cut to ten people and the waiting list on decisions before the Water Court might take up to five years because of backlog.

The Spring 2004 Montana, the Magazine of Western History claimed “The Fellow Who Can Talk the Loudest and Has the Best Shotgun Gets the Water”. In some areas water users went through the District Court for direction. However, the District Court decrees did not take into account other water users or streams in a basin. So these decrees are likely to change when the adjudication program looks at allocation from a basin standpoint, rather than stream by stream.

#### **WATER RIGHTS ADJUDICATION**

In June 1979, the Montana Supreme Court issued an order requiring every person claiming ownership of an existing water right that existed before 1972 to file a claim with DNRC. Claims not timely filed were lost, because the statutory conclusive presumption was that the water right was abandoned. Whether a water right was subject to an existing District Court decree or not, the entity holding that water right was still required to file its claim.

When the State began adjudication, essentially, a large lawsuit with every water user as a party began. Because this has been so long in the development, some water users don’t know that they are part of the process.

Currently the only way a water right claim can be changed is (1) by the claimant; (2) by an-

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## **MARK YOUR CALENDAR**

**July** **County Budget hearings**  
July 5 Independence Day, observed  
July 6-10 County Attorney Association Convention  
July 9 Revenue / Transportation Interim Committee  
July 12-13 Tax Reform Committee; Capitol Room 317  
July 15 Property Tax Reappraisal Interim Committee  
**July 16-20 NACo Annual Conference; Phoenix**

#### **UPCOMING EVENTS**

**August 9** **County budgets adopted; mill levies set**  
August 10 MACITA meeting; MACo Conference Room  
**August 10** **Districts 1, 2 and 3; Wibaux**  
**August 11** **Districts 6 and 7; Red Lodge**  
August 19 Drought Advisory Committee; DEQ Room 111  
**August 23** **Districts 10 and 11; Hamilton**  
**August 25** **Districts 8, 9 and 12; Virginia City**  
**August 27** **Districts 4 and 5; Dutton**

other water user, with ownership interest, filing an objection before the Water Court; or (3) through the Water Court’s action. If the Water Court determines that there are issues with a claim, the Court itself can call the claim into court.

The process is complex and frustrating. People of Montana need to make water adjudication a top priority again to speed the process. If a water right is defined by the historic beneficial use of the water, who better can explain the historic use than those who have been using the water? As time passes, the historic knowledge of how and when the water was put to beneficial use diminishes.

Water adjudication deals with all water rights and affects every Montanan. Irrigators and hydroelectric facilities with water rights are obviously affected; but cities, towns, water districts, or businesses also rely on water rights. What happens when a county water district continues to expand and its existing water right won’t meet demand? How does the Water Court determine if there is additional water available from the current water source? Can a water district purchase water rights from another nearby source? How are buyer and seller supposed to come to agreement without clear definition of water rights?

The current water adjudication process offers three alternatives:

1. Continue doing the adjudication in the current manner, knowing it will be another 40 years and a cost of at least \$50 Million
2. Stop working on adjudication and hope no one comes wanting water
3. Find a way to fund adjudication so that it can be completed in a timely manner.

## WEED CONTROL UPDATE

By David Schulz, Chair  
MT Weed Summit Steering Committee

During the past six years, I have held the position of Weed Summit Steering Committee Chair. During this time, we developed the Montana Weed Management Plan and initiated implementation of the Plan by Montanans, private and public. Currently, we are in the process of updating the Plan to include new weeds (including aquatics), strategies, cooperators and various other additions.

Recently, our monthly meetings have included dialog of the greater issue of invasive species. We are interested in this area for several reasons. First, an older Presidential Order on Invasive Species prioritizes discussion of all invasive species. Second, current Montana invasive types are knapweed and spurge, etc. However, Zebra Muscle, several exotic snakes and a variety of other concerns are finding themselves closer to Montana. Some persons feel the West Nile Virus and BSE (Mad Cow Disease) issues are relative to the invasive species blanket, as well.

As the Steering Committee proceeds with this overall issue, I feel it is important to keep MACo, and particularly our committees involved with land and resource use, aware of the steps we are considering.

Questions we are evaluating with Agriculture Director Ralph Peck and others include: Should our Weed Management Plan be broadened to include all invasive species? Who should be included in an advisory council or steering committee? Are we stepping into Homeland Security or other territory with some of the issues? Are we going to loose some of the priority we have worked hard to place on invasive/noxious weed species?

As other states prioritize invasive species in accordance with the Order, and if we in Montana remain interested only in weed species, our ability and success in competing for federal support will be lessened.

This is written as a "heads up" of some of the concerns, some of the activities, and some of the potential issues before us. I encourage anyone interested in this issue to participate.

## 2004 PRESIDENT'S SCHOLARSHIPS



*Laura Svalberg, Scholarship winner from Plains and MACo President Carol Brooker, Sanders County*

MACo President Carol Brooker presented two 2004 President's scholarships. The annual scholarships are awarded to graduates from the President's home county who plan to attend a Montana college.

Winner of the \$1,000 scholarship is Shawna Raden, who is a recent graduate of Plains High School. "By nature, I'm more of a follower than a leader," she wrote. Then she explained that she had identified that as a weakness and, as a junior in high school, began accepting leadership positions to develop her abilities. Shawna hopes to attend MSU-Bozeman to study Environmental Science.

Laura Svalberg, winner of the \$500 scholarship, is also a recent graduate of Plains High School. Laura plans to attend MSU-Bozeman. "I believe the best way for me is to finish my core classes through the General Studies program first, so that I can explore my college interests and options. I am considering Elementary Education and Child Social Work," she wrote.

The scholarships were presented to the recipients during awards ceremonies at their respective schools. Ms. Svalberg also attended the June 11 MACo Board meeting.

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# Mineral Royalty Payments and P.I.L.T. Controversy

By Harold Blattie, MACo Assistant Director

PILT payments were issued to counties on June 17<sup>th</sup>. Many Montana counties saw a significant decrease in this year's payment when compared to last year. We confirmed that the county shares of Federal Mineral Royalty payments received in August 2003 were considered by BLM as a "prior year payment" for calculation of the PILT payments.

This was the first year that counties received the Federal Mineral Royalty payments, which came as a result of HB 226 passed in 2001 Legislative Session. During the legislative process, the general understanding was that because the money was deposited into a newly -created State Mineral Impact Account, it would lose its federal identity and would not be reported as a prior year payment.

When we received notification of the payments being

reduced, we immediately began an investigation into the cause and sought to determine if this deduction was appropriate or not. It was readily apparent that the mineral royalty payment had been reported as a prior year payment to the BLM and was therefore used as an offset in PILT payments.

On Monday June 29<sup>th</sup>, a group of stakeholders met with Budget Director Chuck Swysgood and several of his staff to discuss this issue. In addition to my attending, Willie Duffield, (Montana Association of Oil, Gas and Coal Counties Executive Director), three members of the Association's Board of Directors, and representatives from all of our Congressional members offices appeared.

After thoroughly reviewing information that had been obtained from several neighboring states and the BLM, the group formulated several ques-

tions that need to be answered before we can determination how to proceed. Chris Heggem in Senator Burn's office will request information from the Congressional Research Service on our behalf. We expect a response should be available within a couple of weeks.

However, based upon the information available at this point, it appears that despite efforts of the legislature to change the mineral royalty payments into a state-shared revenue (therefore not reportable as a prior year payment) the money does not lose its federal identity. For now, our best analysis is that the payment was appropriately reported and the payments received by the counties is accurate.

I do not anticipate any adjustments to the PILT payments received this year.

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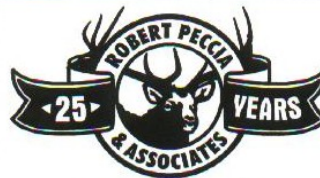
Former Hill County Commissioner **Robert Pester** died June 19. Pester served 1975-1977 as an appointee. He was instrumental in designating Beaver Creek Park, which is the largest county park in the state. As founder/President of Montana Farmers Trucking Association, he helped to establish lower freight rates and unit trains.

He is survived by his wife, Rosalie, of Hingham, two children and extended family.

## FEDERAL FY 2004 P.I.L.T. FUNDING

COUNTY	Acreage	Payment	Change	COUNTY	Acreage	Payment	Change
ANCND DEER LODGE	213,670	\$278,185	6%	MUSSELSHELL	87,517	\$102,325	3%
BEAVERHEAD	2,045,153	\$528,399	3%	PARK	945,496	\$815,523	3%
BIG HORN	41,434	\$7,858	- 86%	PETROLEUM	335,040	\$46,760	3%
BLAINE	451,891	\$472,885	33%	PHILLIPS	1,377,093	\$232,000	- 11%
BROADWATER	282,118	\$385,936	3%	PONDERA	107,919	\$136,315	1%
BUTTE SILVER BOW	233,448	\$296,832	3%	POWDER RIVER	594,815	\$113,630	- 20%
CARBON	572,524	\$553,359	- 10%	POWELL	720,108	\$353,646	4%
CARTER	594,608	\$112,769	2%	PRAIRIE	429,486	\$75,566	-8%
CASCADE	215,467	\$278,350	2%	RAVALLI	1,109,553	\$1,408,485	3%
CHOUTEAU	155,705	\$193,330	- 6%	RICHLAND	54,365	\$12,959	- 82%
CUSTER	333,735	\$449,788	1%	ROOSEVELT	4,284	\$1,949	- 65%
DANIELS	200	\$121	- 55%	ROSEBUD	325,876	\$61,803	- 86%
DAWSON	63,960	\$27,005	- 69%	SANDERS	914,740	\$173,483	4%
FALLON	115,901	\$11,858	- 89%	SHERIDAN	1,781	\$338	- 86%
FERGUS	483,796	\$652,162	2%	STILLWATER	191,193	\$251,505	2%
FLATHEAD	2,440,184	\$1,289,535	18%	SWEET GRASS	302,039	\$313,408	2%
GALLATIN	703,918	\$928,387	3%	TETON	285,003	\$366,822	3%
GARFIELD	814,977	\$115,029	3%	TOOLE	45,459	\$50,265	- 18%
GLACIER	401,497	\$555,233	2%	TREASURE	748	\$142	- 85%
GOLDEN VALLEY	31,537	\$41,132	3%	VALLEY	1,122,651	\$491,925	- 6%
GRANITE	703,898	\$133,496	4%	WHEATLAND	65,924	\$84,318	3%
HILL	47,718	\$52,631	- 18%	WIBAUX	26,995	\$5,120	- 86%
JEFFERSON	556,625	\$563,902	3%	YELLOWSTONE	78,235	\$104,439	1%
JUDITH BASIN	308,662	\$174,068	3%				
LAKE	156,486	\$159,735	3%				
LEWIS and CLARK	1,075,515	\$1,284,086	3%				
LIBERTY	33,656	\$40,962	- 9%				
LINCOLN	1,748,057	\$331,525	4%				
MADISON	1,051,292	\$501,579	3%				
McCONE	273,745	\$168,087	3%				
MEAGHER	483,557	\$115,577	3%				
MINERAL	642,655	\$121,881	4%				
MISSOULA	715,570	\$653,528	4%				

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# COUNTY COMMISSIONER CANDIDATES

\* = Incumbent    R = Republican    D = Democrat    NP = Non-partisan    I = Independent    C = Constitution

<b>Anaconda-Deer Lodge</b> * #1 Paul Beausoliel NP Russell Bilodeau NP #2 Frank Knadler NP Peter Kurtz NP #3 Joseph Wyant NP Linda Sather NP <b>Beaverhead</b> * Michael McGinley R <b>Big Horn</b> * John T. Doyle NP <b>Blaine</b> * Don Swenson D <b>Broadwater</b> * Steve McCullough NP Jack Sangray NP <b>Butte-Silver Bow</b> #3 Jim Fay NP Bill Willman NP * #4 John Sorich NP Bob Kocker NP * #5 Charlie O'Leary NP Robert Conklin NP #6 Chuck Krause NP Wally Frasz NP #7 Dave Coleman NP Will Steyh NP * #12 Michael Mulcahy NP <b>Carbon</b> * David Davidson NP Renee Shanks NP <b>Carter</b> Bill Loehding R <b>Cascade</b> Charla Merja D Joe Briggs R <b>Chouteau</b> * Ken Evans R <b>Custer</b> * Janet Kelly NP Jack Nesbit NP <b>Daniels</b> Norman Rudd D <b>Dawson</b> Tim Zody R Adam Gartner D <b>Fallon</b> * Roddy Rost D Dennis Afrank R <b>Fergus</b> * Vernon Petersen NP John Jensen NP <b>Flathead</b> Denise Cofer R Joe Brenneman D	<b>Gallatin</b> Joe Skinner R Jarvis Brown D <b>Garfield</b> Jerry Coldwell R <b>Glacier</b> * William Icenoggle R Michael DesRosier D <b>Golden Valley</b> Leslie Burroughs R <b>Granite</b> Suzanne Browning R <b>Hill</b> Mike Anderson D Jody Manuel R Wyatt Dahlin I <b>Jefferson</b> * Sherry Cargill NP Keneth Weber NP <b>Judith Basin</b> Tucker Hughes R Ronald Sherer D <b>Lake</b> Chuck Whitson R Dana Grant D <b>Lewis and Clark</b> * Mike Murray D <b>Liberty</b> * Russ Tempel R <b>Lincoln</b> * John Konzen D Robert Ferguson C <b>Madison</b> * David Schulz NP <b>McCone</b> Patrick Eggebrecht R Rocky Braaten D <b>Meagher</b> * Herb Townsend R <b>Mineral</b> * B. J. McComb D <b>Missoula</b> * Bill Carey D <b>Musselshell</b> Michael Kilby R <b>Park</b> * #3 Ed Schilling NP Dick Murphy NP #2 Larry Lahren NP Brant Robey NP <b>Petroleum</b> * #2 Lee Iverson R #3 J. Chris King R	<b>Phillips</b> Leslie Robinson R Tom Boschee D <b>Pondera</b> Sandra Broesder R <b>Powder River</b> * Ray Traub R Lyman Amsden I <b>Powell</b> Ralph Mannix R <b>Prairie</b> * Bill Leach R <b>Ravalli</b> * Alan Thompson R Phyllis Bookbinder D <b>Richland</b> * Mark Rehbein R John Redman D <b>Roosevelt</b> Vickie Delger D <b>Rosebud</b> * Dan Watson D Bob Nansel R <b>Sanders</b> * Justin Gail Patton R Nancy Beech D <b>Sheridan</b> * Bill Nyby R <b>Stillwater</b> * Cliff Bare D Dennis Hoyem R <b>Sweet Grass</b> Philip Hathaway R <b>Teton</b> Pete Rasmussen R Joseph Dellwo D <b>Toole</b> * Allan Underdal R <b>Treasure</b> Marlo Moehr R <b>Valley</b> * Dave Reinhardt R Tim Potter D <b>Wheatland</b> * David Miller D <b>Wibaux</b> Leif Bakken R <b>Yellowstone</b> * Jim Reno R Laris Roberts D	<u><b>COMMISSIONERS</b></u> <u><b>ENDING THEIR TERMS</b></u> <b>Anaconda-Deer Lodge</b> Dave Beatty <b>Butte-Silver Bow</b> Joe Quilici Paul Babb Ristene Hall <b>Carter</b> Milton Markuson <b>Cascade</b> Tom Stelling <b>Daniels</b> Betty Hagfeldt <b>Dawson</b> Jim Deckert <b>Flathead</b> Howard Gipe <b>Gallatin</b> Jennifer S. Mitchell <b>Garfield</b> Brent McRae <b>Golden Valley</b> Joan Krause <b>Granite</b> Earl Martin <b>Hill</b> Patrick Conway <b>Judith Basin</b> Richard Cervenka <b>Lake</b> David Stipe <b>McCone</b> Robert Kluth <b>Musselshell</b> Bryan Adolph <b>Park</b> Edmond Carrell <b>Phillips</b> Carol Kienenberger <b>Pondera</b> Sam Harris <b>Powell</b> Tom Hatch <b>Roosevelt</b> Ferris Toavs <b>Sweet Grass</b> Tom Hammersmark <b>Teton</b> Mary Sexton <b>Treasure</b> Roger Knapp <b>Wibaux</b> Tom Nelson
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# COUNTY NEWS

## COUNTY OFFICIALS

**PETROLEUM COUNTY** Commissioner Tom Pugrud resigned in April. J. Chris King was appointed to complete the term. King is the lone candidate for the position in the General Election.

**PETROLEUM COUNTY** Sheriff Bill Troutwine resigned in June. Glen Gillett has been appointed to the position.

**GLACIER COUNTY** Sheriff Gary Racine resigned following Federal charges of conspiracy to defraud the US government. An appointment to the position is pending.

**CASCADE COUNTY** Sheriff Kent Funyak resigned and Sheriff-elect Dave Castle was appointed to begin duties July 1.

**PONDERA COUNTY** Sheriff Leon Simpson resigned effective July 31. In addition, Pondera County has recently consolidated the sheriff and coroner positions.

**FALLON COUNTY** is proceeding through the process to consolidate the sheriff and coroner positions.

## NATURAL RESOURCES

**LINCOLN COUNTY** is considering a "community forest" project of about 15,000 acres to be managed like a "tiny national forest" by a local board. The project proposal is in response to a prospective Plum Creek subdivision of thousands of acres of timber land.

**MADISON COUNTY** policy to allow public access to waterways and to keep livestock from entering public roadways is under fire. Public Lands Access Association filed suit against the county saying it failed to protect public access; a landowner filed suit saying the county policy takes or damages private property rights without compensation.

**SANDERS COUNTY** provides bins to collect glass solid waste and is using the glass to fill a county gravel pit that was closed.

## FACILITIES and SERVICES

**CASCADE COUNTY** Courthouse dome's Lady Justice was blown over in a November wind. The copper statue was dented, bent, removed and is waiting attention from conservators and local artisans.

**ROOSEBUD COUNTY** Courthouse, built in 1912, is being remodeled to add an elevator. The contractors designed the addition to match the courthouse exterior.

**TREASURE COUNTY** is approaching grantors for funds to plan an assisted living facility.

**PRAIRIE COUNTY** did not receive any bids for the sale of Prairie County Manor, the county nursing home.

**SHERIDAN COUNTY** is applying for a US Housing and Urban Development (HUD) grant to replace 53 windows in Pioneer Manor, the county nursing home.

**RAVALLI COUNTY** broke ground for construction of Wilkinson Complex, a facility for the Council on Aging and the Bitterroot Bus garage. Susie Wilkinson, age 94, was present to witness the beginning uses of her donated land.

**ROOSEVELT COUNTY** broke ground on the new county multi-use building which will house services such as the health department, mental health services and senior services. A CDBG grant was used for funding.

**GALLATIN COUNTY** borrowed \$999,999 from the Board of Investments for library improvements in five communities.

**CASCADE COUNTY** bookmobile services to 18 rural locations have been stopped because of budget restrictions. Funding for the library district was affected by the PPL tax protest.

**YELLOWSTONE COUNTY** received no bids for their request to sell naming rights for Metra Park.

**DAWSON COUNTY** wrote a letter of support to Department of Corrections for locating an alcohol treatment or the WATCH program in the former Eastmont facility.

**GARFIELD COUNTY** Museum celebrated its 20th anniversary with a potluck supper and entertainment by Ann Secrest Hanson, recent inductee into the Cowgirl Hall of Fame.

**TETON COUNTY** pledged TSEP funds for acquisition of the Old Agency on the Teton. The location is to be considered for designation as Indian Agency State Park.

**GALLATIN COUNTY** is leasing 16 acres of the county's regional park to the YMCA for recreation facilities.

**ANACONDA-DEER LODGE and MISSOULA COUNTIES** are affected by a US EPA and MT DEQ proposal to remove the most highly contaminated sediments behind the 100-year old Milltown Dam in Missoula County and ship them by rail to Opportunity Ponds in Anaconda-Deer Lodge. Both sites are owned by ARCO.

**YELLOWSTONE COUNTY** issued a letter of intent to purchase property located next to the new Sheriff's Department.

**STILLWATER COUNTY** eighth grader, Jake McNally, prepared a county disaster evacuation plan for a science project. He used GPS and ARC View map-making to devise six potential escape routes for two hypothetical disasters—fire and hazardous gas. He identified several homes and an Interstate culvert which had not been updated on county maps.

**PARK COUNTY** is supporting an effort to place an historical marker at the cemetery of the old county-owned Sunset Farm, a poor farm for elderly and sick who had no families. Sunset Farm was closed in the 1950s.

## SUCCESSFUL LEVY & BOND PROPOSALS

### BUTTE-SILVER BOW

Economic Development

### BIG HORN COUNTY

County Public Library

### CARBON COUNTY

Road Fund

### CUSTER COUNTY

Economic Development

### DAWSON COUNTY

Ambulance

Library

Weed Control

### FLATHEAD COUNTY

Emergency Response

Transportation for Aged

### GLACIER COUNTY

Nursing Home and Assisted Living Bond

### HILL COUNTY

County Library

### JEFFERSON COUNTY

Public Health Department

Library Services

### LEWIS & CLARK COUNTY

Fairground Buildings and Infrastructure Bond

### MADISON COUNTY

Nursing Homes

### MINERAL COUNTY

Hospital

Noxious Weed Control

### PHILLIPS COUNTY

Road Fund

### PONDERA COUNTY

Port Authority

### POWELL COUNTY

Bridge Fund

### RAVALLI COUNTY

Purchase County Building and 8 Lots Bond

\*\* First independent library district in Montana

### ROOSEVELT COUNTY

Road Fund

### VALLEY COUNTY

Roads and Bridges

### WIBAUX COUNTY

Nursing Home

## LOCAL GOVERNMENT REVIEW MONTANA COUNTIES

Anaconda-Deer Lodge

Big Horn

Broadwater

Butte-Silver Bow (with funding)

Fergus

Glacier

Lake

Mineral

Missoula

Petroleum (with funding)

Phillips

Pondera

Ravalli

Roosevelt

Treasure

Valley

## INFORMATION REMINDER

1. Please send your 2004-2005 Compensation Board Recommendations to MACo. We want to provide this information for next year's Compensation Boards, when the time comes.
2. When you submit your 2004-2005 Annual Budget to the State, please send a copy to MACo, also. The budget documents are used to prepare information and testimony for upcoming legislative sessions.

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## GLASS PULVERIZER

by Brian Spangler, DEQ Pollution Prevention  
Business and Community Assistance

I am pleased to announce that the Business and Community Assistance Program has received financing for a mobile glass pulverizer to meet the challenges of recycling glass in Montana.

The pulverizer will be mounted on a trailer with its own generator, which we hope to power by bio-diesel. Headwaters Cooperative Recycling will begin operation this summer. In addition to Headwaters' region, it will enable glass recycling in other communities.

Headwaters Cooperative Recycling includes thirteen counties in Montana, in addition to a partnership with Yellowstone National Park. They are a 501-C-3 non-profit entity which is the largest recycling cooperative in the United States.

We will be meeting in the near future to select the manufacturer and specifications, as there are two manufacturers of the equipment. The lead-time is 8-10 weeks once the order is placed.

We have partnered with the Montana Department of Transportation (MDT) and their specifications allows for glass cullet for soil-aggregate filler for road construction. Some other markets for glass cullet are as follows:

- landscaping
- septic drain fields
- retaining wall backfill
- drain pipe bedding and backfill
- French drains
- other uses

To learn more about one of the manufacturers, go to <http://www.glassagg.com/product1.html> (scroll to the bottom of the page for the mobile glass pulverizer).

Partnerships of state, tribal and local governments, private industry and non-profit organizations can move recycling forward in the state. This project, which will further establish glass recycling in Montana, is a great step towards this. I look forward to keeping you apprised of further progress of the mobile glass pulverizer.

## REAL ESTATE MANAGEMENT BY DNRC

The Montana Department of Natural Resources and Conservation (DNRC) has completed a "Draft Real Estate Management Programmatic Environmental Impact Statement" (DPEIS). The DPEIS proposes five alternatives to diversify the state trust lands statewide for commercial, conservation, industrial, and residential uses. The DPEIS is available on the DNRC web site at [www.dnrc.state.mt.us/programmatic/deis.htm](http://www.dnrc.state.mt.us/programmatic/deis.htm)

"We seek public comment to help identify preferred alternatives," according to Jeanne Holmgren, Chief of the Real Estate Management Bureau (REMB). "Preferred alternatives will guide the decisions of the REMB, previously known as the Special Use Management Bureau, under the Trust Land Management Division of DNRC. All alternatives anticipate a structured land and project evaluation process that includes local government review of future land use actions."

The public comment began on June 21 and extends for 60 days through August 20, 2004. Additionally, the agency will be conducting open meetings to take comments:

### **Billings July 8**

War Bonnet Inn  
2612 Belknap Ave.

### **Bozeman July 12**

State of Montana Office Building  
DNRC Bozeman Unit  
2273 Boot Hill Court

### **Missoula July 13**

Best Inn South—Conference Center  
3803 Brooks St.

### **Kalispell July 14**

Hampton Inn—Spring Creek Room  
1140 Hwy 2 West

### **Helena July 15**

Cube Lounge—Campus Center, Carroll College  
1601 N. Benton

Comments will be accepted also at:  
REMB PEIS  
P.O. Box 201601  
Helena, MT 59620.  
or emailed to [rembpeis@state.mt.us](mailto:rembpeis@state.mt.us).

# FIVE MEGA-TRENDS REDEFINING COUNTY GOVERNMENT

A synopsis of an article by Carl Neu, who was a presenter at MACo 2004 Midwinter

## 1. The state-local government partnership is waning.

The historic partnerships that existed and were honored for decades among the federal, state and local governments have been eroded by devolution, mandates, preemption and initiatives.

Often, state legislatures and governors no longer perceive cities and counties as partners in the delivery of services. Local governments no longer can rely on the state for assistance to provide services. As one local government manager noted recently, "Counties and cities want to focus on positives, but spend so much time defending themselves against state attempts to erode local control."

## 2. Substantial erosion of local government fiscal health threatens long-term fiscal viability.

First, tax structure and revenue distribution systems in many states are counter-productive to ensuring local government fiscal stability. They often create bad tax policy and pit state and local governments against each other.

Second, harmful initiatives are reducing taxing capacity and removing fiscal authority from elected officials.

Third, costs continue to increase substantially. The net effect is a direct assault on the fiscal sustainability of local governments.

## 3. People perceive local government entities to be redundant, fragmented, competitive and inefficient.

The public expects local governments to work in partnerships to produce efficiencies, economies of scale, and cost-effectiveness in services. They know reform is needed but they can't define what that reform should look like. A recent poll in Minnesota suggests that the public does not believe local governments are willing or capable to provide reforms.

Everyone who lives in or receives services from other local governments (cities, school districts, special purpose districts) also lives in a county. County officials are positioned uniquely to assert leadership in creating new service-delivery models and partnerships because they represent the interests and needs of all the people in all these jurisdictions.

## 4. Citizens are not engaged with/by their local governments; in fact, they are becoming anti-government.

The public does not feel connected to local government, does not understand local government, and lacks faith in local government's will and ability to work together. So they look to others to fill this leadership void and state legislators, special interest groups, and tax opponents rush in to impose their agendas on local governments.

Local governments must be seen as providing real value in service delivery.

## 5. Local, grassroots government is being usurped.

Currently, a redefinition of government relationships, with power and authority being usurped upward, is occurring as the authority of local governments is being eroded.

Grassroots governments see, serve, and relate to people in the first-person sense. Non-grassroots governments and agencies relate to people in the third-person sense.

## SOLUTIONS?

Counties must develop partnership-based relationships among themselves, with state government, and with other community groups such as non-profits and the private sector. This concept needs to be recognized, revisited, and reframed into the Declaration of Interdependence revitalizing, rather than eroding, local governments.

The **first** requirement is to keep our commitment to local government as the strength and hallmark of the America Democratic Experiment created for our benefit by the nation's founders.

The **second** requirement is for county leaders to assert themselves, in conjunction with other local government leaders, as the "re-founders" who CAN put local government back on track by reforming it to meet changing conditions and public expectations.

## Effective Collection of Outstanding Debt

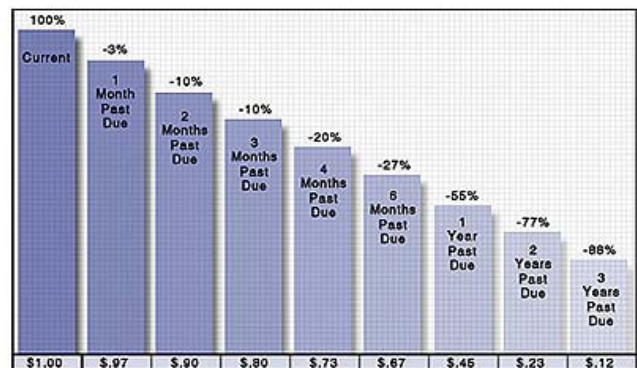
Counties are experts at collecting property taxes. This is partly due to the fact that citizens generally recognize the value of the investment they have in their homes and don't want to risk losing them. Additionally, the tax collector's office is usually quite adept at following up quickly with those property owners who don't pay, encouraging them to do so. However, when it comes to other types of fees or fines owed to counties, collection can be much more difficult. When citizens either can't or don't pay for water and sewer services, ambulance or EMS services, or court fines, etc., local governments often find it very difficult to collect.

This is especially true when the task of collecting is left to individual departments that are focused on providing services rather than tracking down monies owed. Few have the staff, software and equipment necessary to adequately collect funds owed to them. This is particularly problematic during tight financial times when resources for basic services are stretched thin. Just when the need to collect is at its highest, the resources necessary to do so are least available.

Many counties have come to rely on private collection firms to assist in recouping older debt, but determining when to hand over collectibles can dramatically affect how much is eventually recovered. For counties which don't have internal resources dedicated to tracking down debt, delinquent accounts should be outsourced as quickly as possible. The following graph shows just how quickly money owed becomes money lost. According to information from the U.S. Department of Commerce, one dollar owed to the county today is only worth 45 cents one year from today.

Good public-sector collection firms operate on a contingency-fee basis so there is no cost to turn over delinquent accounts. The collection agency is only paid a percentage of funds it actually collects. Some states even allow the county to charge an "add-on" fee to the original debt amount so that the debtor pays the fee to the collection firm and there is no cost to the county.

NACo recently re-launched its Debt Collection Program. Maximus was chosen as contractor because of its public-sector collection experience, knowledge of local government, and extremely reasonable fees. Maximus provides a wide array of services exclusively for the public sector market. Its track record of collecting debt in this setting makes the company uniquely qualified to assist counties in recovering receivables previously deemed un-collectible. Unlike other collection agencies, Maximus is sensitive to the special circumstances of collecting debt from local government constituents and taxpayers.



For more information on the NACo Debt Collection Program, please contact Nancy Irish at (202) 661-8824 or [nirish@naco.org](mailto:nirish@naco.org).

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## OW! WHAT A HEADACHE!



By Emelia McEwen  
MACo Risk Management Assistant

### 5 COMMON HEADACHE TRIGGERS

Headache sufferers spend more than \$4 Billion a year on over-the-counter pain relievers. But prevention costs you nothing. Here are five leading headache culprits:

#### 1) STRESS

Frayed nerves are a frequent cause of "tension" headaches and may also trigger migraines. Ideas: take 30 minutes a day just to daydream, meditate or otherwise relax.

#### 2) DIET

Certain foods contain substances that can trigger headache. Examples: caffeine, red wine, processed meats, chocolate, cheese, citrus fruits, lentils, snow peas and monosodium glutamate (MSG).

#### 3. EYESTRAIN

Concentrating on one object for a long time (such as a computer screen) can cause temporary head pain. Suggestions: Take occasional "eye breaks" by looking out a window...consider an

eye exam to see if a vision problem may be a factor.

#### 4. SITTING

Staying seated for long periods, especially if you're constantly on the phone or hunched over, can tighten muscles and lead to tension headaches. Self-defense: Shift position...stretch once an hour...stand during phone conversations...take a lunchtime walk.

#### 5. SLEEP

Too little, or surprisingly, even too much sleep can bring on headaches. Best: Control your brain's "clock" by going to bed and getting up at the same time each day — even on weekends.

### WRIST SAVER

Here's a quick way to relieve wrist pain and strain from keyboard work or repetitive motions: Rest your elbow on a desk with your hand hanging over the edge. Stretch your fingers as far back as you can with your other hand and hold for five seconds. Repeat for the other hand.

#### MACo News

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